

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of TYLER DAVID KINNEY and
ASHLEY ROSE KINNEY, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

RYAN DANIEL LEMING,

Respondent-Appellant.

UNPUBLISHED

June 30, 2005

No. 259590

Macomb Circuit Court

Family Division

LC No. 03-055331-NA

Before: Cooper, P.J., and Fort Hood and R. S. Gribbs*, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating his parental rights to the minor children under MCL 712A.19b(3)(a)(ii), (b)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err in finding that at least one statutory ground for termination of respondent's parental rights was established by clear and convincing evidence. MCR 3.977(J); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999); *In re Gazella*, 264 Mich App 668, 672, 678; 692 NW2d 708 (2005). The amended petition alleged that the children had been physically neglected, and that respondent had an extensive criminal history, was currently homeless and unemployed, and did not provide any financial support for the children. Respondent pleaded no contest to the amended petition, signed the parent/agency agreement, and stated that he would comply with its requirements. Thirteen months after signing the parent/agency agreement, the only portion with which respondent had complied was the requirement that he undergo a psychological evaluation, but he had not followed the recommendations of the psychologist. Respondent acknowledged that he knew he was required to comply with the parent/agency agreement in order to get his children back, but supported his noncompliance by contending that the allegations against him were not true and that he did not need the services. His failure to comply with the parent/agency agreement is evidence of his failure to provide proper care and custody for his children. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003); *In re Trejo*, 462 Mich 341, 360-363; 612 NW2d 407 (2000). His failure to obtain suitable housing and verifiable income provided clear and convincing evidence that he

*Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

would not be able to provide proper care and custody within a reasonable time and that there was a reasonable likelihood the children would be harmed if they were returned to respondent's care. Thus, at least MCL 712A.19b(3)(g) and (j) were established by clear and convincing evidence.

Finally, the evidence failed to show that termination of respondent's parental rights was clearly not in the children's best interests. MCL 712A.19b(5); *In re Trejo, supra* at 356-367. When given the opportunity to demonstrate that he could be a responsible father, respondent refused to comply with the requirements of parent/agency agreement. The trial court did not clearly err in its best interests determination.

Affirmed.

/s/ Jessica R. Cooper
/s/ Karen M. Fort Hood
/s/ Roman S. Gribbs